

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN AMES as Trustee of the United Welfare
Fund, Welfare Division; and LOCAL 726, IUJAT,

Plaintiffs,

- against -

ORDER

07-CV-5372 (RRM) (SMG)

CHOICE ADVANTAGE CORP., LIBERTY
EQUITIES OF AMERICA, and CHOICE
ADVANTAGE CORP. D/B/A LIBERTY
EQUITIES OF AMERICA,

Defendants.

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MAUSKOPF, United States District Judge.

By Motion filed February 13, 2008, Plaintiffs moved for a default judgment against Defendant Choice Advantage Corp. By Order entered March 12, 2008, this Court granted the motion and referred the matter to the Honorable Steven M. Gold, Chief United States Magistrate Judge, for a Report and Recommendation on the issue of damages.

On September 8, 2009, Judge Gold issued a Report and Recommendation (the "R&R") that (1) the complaint be dismissed as to Defendant Liberty Equities of America; (2) Plaintiffs' request for injunctive relief be denied; and (3) Plaintiffs be granted a default judgment against Defendant Choice Advantage Corp. in the amount of (a) \$14,910 in ERISA fund contributions, (b) \$1,050 in unpaid union dues and fees, (c) \$2,415 in attorneys' fees and costs, (d) interest on the unpaid ERISA contributions – said interest to be calculated by the Clerk of the Court, and (e) liquidated damages in an amount equal to the interest awarded.

Judge Gold reminded the parties that, pursuant to Rule 72(b), any objection to the R&R was due September 30, 2009. No party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, it is ORDERED that the Report and Recommendation is hereby adopted. The complaint is dismissed as to Defendant Liberty Equities of America. Plaintiffs' request for injunctive relief is denied. Plaintiffs are entitled to a judgment against Defendant Choice Advantage Corp. in the amount of \$14,910 in ERISA fund contributions, \$1,050 in unpaid union dues and fees, and \$2,415 in attorneys' fees and costs, for a total damages award of \$18,375. The Clerk of the Court shall add to that amount (1) an award of interest on the \$14,910 in unpaid ERISA contributions, calculated at a rate of 1.5% per month, from June 15, 2007 through the date of judgment; and (2) an award of liquidated damages in an amount equal to the interest awarded. The Clerk of the Court is directed to enter judgment accordingly and close the case.

SO ORDERED.

Dated: Brooklyn, New York
October 20, 2009

s/RRM

ROSLYN R. MAUSKOPF
United States District Judge